IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION NO: 9302 of 2004

Between:

C. Venkateswarlu, S/o. Konaiah,
Registered Class-III Civil Contractor, Srisailam Dam West,
Mahaboobnagar District.

... PETITIONER

AND

1. The Andhra Pradesh Power Generation Corporation Ltd.,
rep by its General Manager (Administration), Vidyut Soudha,
Hyderabad.
2. The Executive Director, Civil, Hydro, APGENCO,
Vidyut Soudha, Hyderabad.
3. The Superintending Engineer, Civil Construction and O & M Circle,
S.L.B.H.E.S. Srisailam Dam West, Mahaboobnagar District.
4. The Executive Engineer, Civil, O & M Circle,
S.L.B.H.E.S. Srisailam Dam West, Mahaboobnagar District.
5. Smt. Sk. Allabee W/o. Jeelani
O/o. B&R Division, SLBPSP, Srisailam Dam West,
Mahabubnagar District.
6. Smt. R. Latha W/o. R.J. Raju
O/o. B&R Division, SLBPSP, Srisailam Dam West,
Mahabubnagar Dist.
7. Smt. B.Indramma W/o. Subba Reddy, O/o. B&R Division, SLBPSP,
Srisailam Dam West, Mahabubnagar District.
8. Smt. Mangamma W/o. Mallaiah, O/o. B&R Division, SLBPSP,
Srisailam Dam West, Mahabubnagar District.
9. Smt. G. Kalamma W/o. Late Sulthan, O/o. B&R Division,
SLBPSP, Srisailam Dam West, Mahabubnagar District.
10. Smt. Nagamma W/o. Nagaraju, O/o.B&R Division,
SLBPSP, Srisailam Dam West, Mahabubnagar District.
11. Smt. G. Narayanamma Thirupathaiah, O/o.B&R Division,
SLBPSP, Srisailam Dam West, Mahabubnagar District.

12. Smt. Nasar Bee W/o. Sitar Sa, O/o.B&R Division,
SLBPSP, Srisailam Dam West, Mahabubnagar District.
13. Sri Mallaiah S/o. Lingamaiah, O/o.B&R Division,
SLBPSP, Srisailam Dam West, Mahabubnagar District.

14. B. Buchaiah S/o. Ramulu, O/o.B&R Division,
SLBPSP, Srisailam Dam West, Mahabubnagar District.
15. Smt. Ananthamma W/o. Jagannatham, O/o.B&R Division,
SLBPSP, Srisailam Dam West, Mahabubnagar District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction in the nature of Mandamus or otherwise declaring the Proceedings Lr. No. SE/CC&O&M/SLBHES/T/F/ D.No.854/04 dated 13-05-2004 issued by the 3rd respondent, as arbitrary illegal and unconstitutional violating Articles 14,19 (1)(G) and 21 of the Constitution of India and also ultra vires to Clause 19(D) of supplemental conditions to the preliminary specifications to the APSS of the tender specifications and set aside the same and issue consequential directions, directing the 3rd Respondent to execute an agreement with the petitioner in terms of the LOI issued in Proceedings No.SE/CC&O&M/SLBHES/T/F/D.No.652/04 dated 12-04-2004, without insisting the additional conditional conditions imposed subsequently and strictly in accordance with Clause 19(D) of supplemental conditions to the preliminary specifications to the APSS of the tender specifications interest of justice as otherwise the petitioners will be put to irreparable loss and injury.

Counsel for the Petitioner: MR.P.V.KRISHNAIAH

Counsel for the Respondent No.: SMT. E.URMILA

The Court made the following:

ORDER: -

This writ petition is filed seeking *mandamus* declaring the Proceedings Lr.No.SE/CC&O&M/SLBHES/T/F/D.No.854/04, dated

13-05-2004 issued by the third Respondent, as arbitrary and illegal and to consequentially direct the third Respondent to execute an agreement with the petitioner in terms of the LOI issued in Proceedings No. Lr.No.SE/CC&O&M/SLBHES/T/F/D.No. 652/04 dated 12-04-2004, without insisting the additional conditions imposed subsequently and strictly in accordance with Clause 19(D) of supplemental conditions to the preliminary specifications to the

APSS of the tender specifications.

2. Petitioner claims to be the successful tenderer pursuant to the tender notification dated 28-02-2004 issued by the third respondent in respect of a work for maintenance of plantation, lawns and up-keeping of APZENCO Colony situated at Srisailam. It is stated that the third respondent, while awarding the said work to the petitioner by his letter dated 12-04-2004 for an amount of Rs.4,04,409-29 ps., directed him to attend his office and conclude the agreement within 15 days, and further directed to bring a non-judicial stamp worth Rs.100/- and also to submit a crossed demand draft for Rs.13,925-00 drawn in favour of the Senior Accounts Officer. It is further stated that in the said letter, the third respondent has also imposed a condition that the minimum number of labour engaged daily shall be '11' during the period of the contract and the contractor shall continue the same labour engaged by other contractors as stated previously. Accordingly, the petitioner was requested to conclude the agreement by contacting the Executive Engineer/Civil/O&M Division/ SLBHES in the matter, to commence the work. The petitioner, instead of complying with the said condition, addressed a letter dated 19-04-2004 stating that he has no obligation to engage the labour as contemplated under Clause 19(D) of the supplemental conditions of the preliminary specifications to the A.P.S.S and requested not to make applicable Clause 19(D), but the said request was not accepted by the Superintending Engineer on the ground that the petitioner is bound to accept the said Clause incorporated in Clause 19(D).

3. It is further stated that the petitioner addressed another letter dated 29-04-2004 stating that Clause 19(D) of the supplemental condition is specially meant for adversely affected labour of the other projects and displaced persons of submergible villages if any, due to the said projects and also retrenched labourers of Upper Sileru or Lower Sileru and the subject of the work only relates to a general maintenance of plantation, lawns and up-keeping of the Colony where there is need to engage the skilled labour and the petitioner has got some workers under his control since last several years and if he does not engage them, they will be adversely affected, and, therefore, it is the contention of the petitioner that he is entitled to engage his own labour other than the workers mentioned in Clause19(D), but the said request of the petitioner was not accepted and accordingly the award of

the work entrusted in favour of the petitioner was cancelled in exercise of the powers of 60 of P.S. to APDSS, duly forfeiting the earnest money deposit. Hence, the present writ petition.

4. The only question that arises for consideration is as to whether the cancellation of the work in favour of the petitioner is arbitrary, illegal and unjustifiable.

5. I am of the opinion that when the petitioner voluntarily refused to accept Clause 19(D) of the supplemental conditions, his contention that there was no need to engage any skilled labour and he is entitled to engage his own labour cannot be accepted as it is contrary to the stipulated conditions. Therefore, his contention that the cancellation of the work in his favour, is arbitrary and illegal, cannot be countenanced.

6. The writ petition is accordingly dismissed. No costs.

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V. ESWARAIAH, J

Dt.06-04-2005

Glv

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

Copy to:

1. The General Manager, (Administration),

The Andhra Pradesh Power Generation Corporation Ltd.,
Vidyut Soudha, Hyderabad.

2. The Executive Director, Civil, Hydro, APGENCO,
Vidyut Soudha, Hyderabad.
3. The Superintending Engineer, Civil Construction and O & M Circle,
S.L.B.H.E.S. Srisailam Dam West, Mahaboobnagar District.
4. The Executive Engineer, Civil, O & M Circle,
S.L.B.H.E.S. Srisailam Dam West, Mahaboobnagar District.

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